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Rules and regulations for carrying out the...

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[1935]

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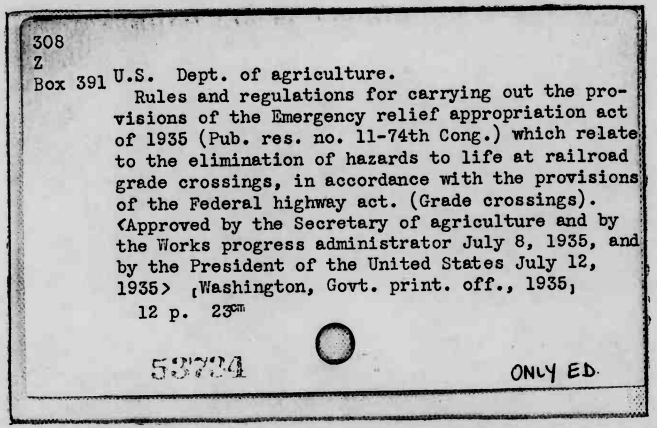

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Box 391 U.S. Dept. of agriculture.
Rules and regulations for carrying out the provisions of the Emergency relief appropriation act of 1935 (Pub. res. no. 11-74th Cong.) which relate to the elimination of hazards to life at railroad grade crossings, in accordance with the provisions of the Federal highway act. (Grade crossings). ‹Approved by the Secretary of agriculture and by the Works progress administrator July 8, 1935, and by the President of the United States July 12, 1935› ¡Washington, Govt. print. off., 1935¡
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RULES AND REGULATIONS FOR CARRYING OUT THE PROVISIONS OF THE EMERGENCY RELIEF APPROPRIATION ACT OF 1935 (PUB. RES. NO. 11—74TH CONG.) WHICH RELATE TO THE ELIMINATION OF HAZARDS TO LIFE AT RAILROAD GRADE CROSSINGS, IN ACCORDANCE WITH THE PROVISIONS OF THE FEDERAL HIGHWAY ACT

(GRADE CROSSINGS)

[Approved by the Secretary of Agriculture and by the Works Progress Administrator July 8, 1935, and by the President of the United States July 12, 1935]

DEFINITIONS

SECTION 1. For the purpose of these rules and regulations, the following definitions shall be controlling.

The term "Act" shall mean those provisions of the Emergency Relief Appropriation Act of 1935 (Pub. Res. No. 11—74th Cong.) which provide for the elimination of existing hazards to life at railroad grade crossings, including the separation or protection of grades at crossings, the reconstruction of existing railroad grade-crossing structures, and the relocation of highways to eliminate grade crossings in accordance with the provisions of the Federal Highway Act as amended and supplemented and subject to the provisions of section 1 of the act of June 18, 1934 (48 Stat. 993).

The term "State" as used herein shall include the Territory of Hawaii and the District of Columbia.

The term "Secretary" shall mean the Secretary of Agriculture of the United States.

The term "Works program grade-crossing funds" shall mean the $200,000,000 of Federal funds allocated by the President under the act and any further sums so allocated and apportioned to the several States by the Secretary of Agriculture for the elimination of hazards to life at railroad grade crossings, in accordance with the provisions of the Federal Highway Act as amended and supplemented and subject to the provisions of section 1 of the act of June 18, 1934 (48 Stat. 993).

Projects located on the Federal-aid highway system outside of municipalities involving the use of such funds shall be designated "U. S. Works Program Grade-Crossing Project No. WPGH —." Projects within municipalities, whether or not located on extensions of the Federal-aid highway system into and through such municipalities, involving the use of such funds shall be designated "U. S. Works Program Grade-Crossing Project No. WPGM —." Projects located on secondary or feeder roads outside of municipalities involving the use of such funds shall be designated "U. S. Works Program Grade-Crossing Project No. WPGS —." Any signs which may be displayed on any such project for the purpose of its identification by firms or individuals to whom any contract for its construction is awarded shall refer to the project by the appropriate foregoing designation.

The term "apportionment" refers to the amounts which have been placed to the credit of the individual States by the Secretary's certificate of apportionment of June 3, 1935, for the elimination of hazards to life at railroad grade crossings.

"Secondary or feeder roads" for the purpose of these regulations shall be defined as roads outside of municipalities and streets within municipalities which are not included in the approved Federal-aid highway system or extensions thereof into and through municipalities.

A "municipality" shall be construed to mean a populous community, generally of defined area, usually organized pursuant to law into a body politic with corporate name and continuous succession and for the purpose and with the authority of subordinate local self-government.

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INITIATION OF PROJECTS

SEC. 2. All projects under this act shall be initiated by the States and submitted in the same manner as other Federal-aid projects, and all such projects shall be subject to all of the provisions of the rules and regulations of the Secretary of Agriculture for administering the Federal Highway Act, as heretofore promulgated, except such provisions as are inconsistent or in conflict with these rules and regulations.

APPLICATION OF FUNDS TO PROJECTS

SEC. 3. The funds apportioned to any State under the act shall be applied to projects which eliminate the hazards to life at railroad grade crossings without limitation as to location of projects, except that not less than 25 percent of a State's apportionment shall be expended for eliminating the hazards to life at railroad grade crossings with secondary or feeder roads as defined herein unless a lesser percentage is approved by the Secretary upon a satisfactory showing by the State as contemplated in section 1 of the act of June 18, 1934 (48 Stat. 993).

To secure a reasonably equitable distribution of benefits to the individually operated railroads in a State, projects shall be apportioned, within practical limits, to the individually operated railroads in such manner that the total cost of the project or projects for the elimination of hazards to life at railroad grade crossings on any individually operated railroad shall have approximately the same relation to the total apportionment to the State as the mileage of railroad owned or operated by such railroad bears to the total mileage of railroads owned or operated in the State. For this purpose data obtained from the Interstate Commerce Commission will be furnished the State showing the mileage, exclusive of trackage rights, owned or operated on December 31, 1934, by the individual class 1 railroads in the State together with the mileage of all other classifications of railroads owned or operated in the State.

The mileage of high-speed electric railway lines in any State may be considered in connection with the programming of projects, in which event such mileage shall be reported by a State highway department when submitting the first increment of its program. Nothing in this method of distribution of projects shall operate to prevent the elimination of hazards to life at important main-line railroad crossings of individually operated railroads which railroads may have only a relatively small mileage in any one State.

Within the limitations established by these rules and regulations the funds apportioned shall be available to pay the entire cost of projects of the following character, exclusive of any charges for rights of way and/or property damage:

a. The separation of grades at crossings.
b. The protection of grade crossings.
c. The reconstruction of existing railroad grade-crossing structures.
d. The relocation of highways to eliminate grade crossings.

The separation of grades at crossings may be by underpass or overpass and may include any necessary track elevation or depression and such additional work as may be required by changes in grade or alinement of the highway or relocation of the highway or railroad tracks. Works Program grade-crossing funds may be used in combination with funds from other sources for the accomplishment of projects of greater magnitude than would be possible with Works Program grade-crossing funds alone. The proper approach to a structure eliminating a grade crossing frequently involves major changes in highway alinement which may be a part of a comprehensive complete relocation of the highway. Under such conditions, and under all other conditions, the cost of relocating and constructing the highway approaches to grade-separation structures chargeable to Works Program grade-crossing funds will be limited to work actually necessary and performed within 1,500 feet on each side of the nearest track of the crossing measured along the center line of the highway improvement.

The protection of railroad grade crossings shall be accomplished by means of approved flashing-light signals, unless greater protection is desired than is afforded by flashing lights, in which event the installation of crossing gates, barriers, or other somewhat similar devices, which are satisfactory to the State highway department and the affected railroad company, may be submitted for approval. Railroad grade-crossing protection devices of the flashing-light type shall conform to the requirements for this type of signal as outlined in memo-

randa to district engineers on this subject issued by the chief of the Bureau of Public Roads under dates of April 6, 1934, July 18, 1934, August 15, 1934, November 2, 1934, and December 20, 1934. These requirements permit the use of:

(1) Recommended standards for flashing-light signals adopted by the joint committee on grade-crossing protection of the Association of American Railroads.
(2) Flashing-light signals conforming essentially to the standards recommended by the joint committee on grade-crossing protection of the Association of American Railroads which carry additional features such as a rotating disc or other devices which do not impair the operation or detract from the uniformity or utility of the signals.
(3) A wigwag signal of the magnetic type having standard signs and mounting height, a balanced outline reasonably in keeping with stationary lights with backgrounds and an aspect, when operating, essentially the same as flashing lights.

A definite agreement between the State highway department and the affected railroad company shall be entered into respecting the maintenance of such installations and no Federal funds shall be paid for any installation until such agreement has been filed. The plans and specifications for work of this character shall be in sufficient detail to define or describe the exact kind and quality of material required or, in the case of an operating mechanism, to cover fully the essential requirements of the operating parts so that there may be effective competition in the purchase of materials or parts going into such installations.

The reconstruction of existing railroad grade-crossing structures shall include strengthening and widening or a relocation and rebuilding of the structure to provide approach alinement adequate for the safety of highway traffic. The cost of relocating and constructing highway approaches to reconstructed grade-separation structures chargeable to Works Program grade-crossing funds will be limited to work actually necessary and performed within 1,500 feet on each side of the nearest track of the crossing measured along the center line of the highway improvement.

The relocation of highways to eliminate railroad grade crossings shall include the construction of new highway facilities or the reconstruction of existing highways in such manner that traffic following the new or reconstructed route will not encounter the affected crossings. The relocation of highways to eliminate grade crossings may be of any length, but the cost of such highway relocations chargeable to Works Program grade-crossing funds shall not exceed:

(1) The estimated cost of providing grade-separation structures and approaches thereto for the crossings eliminated on the route; or
(2) The estimated cost of providing on the relocation an improvement to modern standards with a surfacing type comparable to that existing on the portion of the route so relocated.

The estimated cost of providing grade-separation structures and approaches thereto within the limits prescribed herein shall be determined and agreed upon by the State highway department and representatives of the affected railroad company. A copy of such estimate properly approved and signed by representatives of these agencies shall be filed with each project of this character. The estimated cost of providing on the relocation an improvement to modern standards with a surfacing type comparable to that existing on the portion of the route so relocated shall be determined by the State highway department and approved by the district engineer of the Bureau of Public Roads.

Where the cost of a highway relocation to eliminate railroad grade crossings is in excess of the amount chargeable to Works Program grade-crossing funds, provision will have to be made to complete the relocation with funds from other sources before approval is given to the project. Under such conditions, for accounting purposes, it may be desirable to sectionalize the work into different contracts or in the event the balance of the relocation is to be undertaken with Works Program highway funds the two sections may be grouped under a single contract even though they carry different project numbers. First-stage grading construction will be acceptable on highway relocations to eliminate railroad grade crossings provided the State highway department will undertake a commitment for future surfacing within a definite date.

Where a single structure or relocation eliminates grade crossings over the tracks of more than one individually operated railroad, the cost of such structure or relocation shall be chargeable to work performed on the different railroads in the ratio which the number of tracks of each individual railroad bears to the total number of tracks at the crossing.

The funds apportioned under the act shall not be available for the separation of grades at railroad grade crossings on a newly established highway route which is not essentially a relocation of an existing route.

SELECTION OF PROJECTS

SEC. 4. Insofar as practicable and feasible, projects to be undertaken with Works Program grade-crossing funds shall be selected on the individually operated railroads with respect to their relative traffic hazards and the possibility of providing employment in areas where large unemployment exists. Grade-crossing elimination projects within or adjacent to the larger municipalities, which are manually protected and which are used by a considerable volume of highway traffic, or which are frequently occupied by train movements, are especially desirable projects, if funds are available or provision has been made by the State or local authorities for the settlement of right of way costs and/or property damage. Every effort should be made to physically close railroad grade crossings the use of which is practically eliminated by the relocation of highway routes or by the construction of separation structures in the vicinity of such crossings. The extent to which railroad grade-crossing protection may be employed in lieu of grade-crossing eliminations will be determined by the State highway department subject to the condition, however, that important crossings which cannot be reached in the elimination program and which are not now protected by acceptable devices, may be required to be acceptably protected as a part of the program.

PROGRAMS OF PROJECTS

SEC. 5. Each State highway department shall prepare in tabular form, for each of the hereinbefore mentioned classifications of projects, programs of proposed Works Program grade-crossing projects to be undertaken, grouped for each individually operated railroad, indicating the project number, county, location, proposed character of work, estimated man-hours of employment, estimated quantity and cost of the principal kinds of materials entering into such work, the estimated total cost, and the amount of Works Program grade-crossing funds desired for each project. The tabulations for each classification of projects shall be totaled with respect to number of crossings, man-hours of employment, estimated cost of materials, estimated total cost, and the amount of Works Program grade-crossing funds desired. Each State highway department shall confer with the State relief administrator and the State administrator of the Works Progress Administration in an endeavor to select projects for which sufficient labor is available locally from relief rolls. The programs shall be accompanied by Federal-aid progress maps indicating in diagrammatic form the location of projects, their classification, and estimated cost. The programs may be submitted in whole or in part, except that no program will be considered for projects involving less than 25 percent of a State's apportionment unless made up of minor additions made possible by contract prices being less than estimated costs.

Insofar as possible, programs for the complete utilization of the funds available to a State shall contain a list of contingent projects, in order of priority, which will be undertaken in the event projects on the regular program fail to absorb all the funds.

The programs thus prepared shall be submitted to the district engineer of the Bureau of Public Roads for examination and review. Upon receipt of advice from him that they are satisfactory to recommend for approval, they shall then be submitted by the State highway department to the State director of the National Emergency Council and the State administrator of the Works Progress Administration for concurrence in a recommendation of approval before being returned to the district engineer of the Bureau of Public Roads for transmittal to the headquarters office of the bureau for final action.

BASIS OF APPROVAL OF PROJECTS

SEC. 6. All projects proposed by a State highway department shall be measured for approval on the basis of: (1) Providing the equivalent of a man-year of employment on the project at a total cost to the Federal Government, including labor, materials, and all other items properly chargeable to the work, of not exceeding $1,400 per man-year, or (2) that 40 percent of the total cost of

the project, including the cost of private property necessary to acquire in undertaking the project, go to persons directly employed on the project. Items properly chargeable to the cost of a project on which one of the above measures of participation shall apply are:

a. Costs incurred subsequent to the allocation of funds under the act (May 16, 1935) for surveys and the preparation of plans for projects which are approved for construction, except that no part of the expense of maintaining an overhead organization of a State highway department or other agency cooperating with the State in undertaking the work shall be included in such cost;

b. Engineering costs for supervision of construction;

c. All construction costs whether by contract or force account, except that no reimbursement will be made for the use of publicly owned equipment whether owned by the State, county, or other political subdivision.

Upon the completion of any project the total obligation of the Federal Government toward its improvement payable from Works Program grade-crossing funds shall not exceed: (1) The man-hour expenditure for total estimated cost of the project on which the project was approved, multiplied by the number of man-hours of employment actually given on the job as determined by the accumulative totals for administrative, executive, and supervisory employees, and skilled, intermediate grade, and unskilled persons employed on the work during its prosecution; or (2) a figure representing 2½ times the amounts paid to administrative, executive, and supervisory employees, and skilled, intermediate grade, and unskilled persons employed on the work during its prosecution less the cost of private property acquired for the project. If any State highway department desires to undertake work of a type or character in which the total cost is in excess of the cost limitations on which a project may be approved for full Federal participation, such project may be approved provided that the obligation of the Federal Government is limited:

a. To $1,400 per man-year of employment or its equivalent of 90 cents per man-hour of employment for the number of man-hours of employment actually given on the project under the conditions of employment hereinafter given; or

b. To a figure representing 2½ times the amounts paid to administrative, executive, and supervisory employees, and skilled, intermediate grade, and unskilled persons actually employed on the project under the conditions of employment hereinafter given, less the cost of private property acquired for the project.

SURVEYS, PLANS, SPECIFICATIONS, ETC.

SEC. 7. Surveys and plans, specifications, and estimates for all projects in each State shall be prepared under the immediate direction of the State highway department and the construction involved shall be under the immediate supervision of the State highway department. The State highway department, if it so desires, may utilize the services of the engineering organizations of the affected railroad companies, or the engineering organizations of consulting engineers for the preparation of plans for any project. Inasmuch as the Federal Highway Act requires each State to maintain at its own expense a State highway department having adequate powers and suitably equipped and organized to discharge the duties required by the legislation, no part of the cost of maintaining a central office organization of the State highway department or of railroad or consultants' engineering organizations which may be utilized by the State in the conduct of the work under this act will be paid with Federal funds. Engineering charges reimbursable with Federal funds will be confined to the payment of salaries of individuals actually employed in the preparation of such plans and specifications. The funds apportioned shall not be available for the payment of any portion of the cost of surveys and the preparation of plans incurred prior to the approval of the allotment of funds for this purpose on May 16, 1935, and no part of the cost of the surveys, plans, and engineering supervision of construction will be paid to any State which restricts employment of engineers on such work to residents of the State. The design requirements for highway bridges as contained in the standard specifications for highway bridges adopted by the American Association of State Highway Officials shall obtain with respect to structures carrying highway traffic over the railroads. The design requirements of the American Railway Engineering Associa-

tion shall obtain with respect to structures carrying railroad traffic. Railroad clearances in general shall conform to those in effect on the individual railroads concerned.

METHODS OF UNDERTAKING WORK

SEC. 8. Wherever feasible and practicable the contract method shall be followed in performing work of eliminating hazards to life at railroad grade crossings. Work necessary for the maintenance of railroad traffic including temporary support trestles, track adjustment, signal adjustment, the rearrangement of telephone and telegraph lines on railroad right of way, and the adjustment of existing drainage facilities may be undertaken on a force-account basis by the railroad company with its own forces.

Where a State highway department is organized and equipped to undertake projects on a day-labor or force-account basis or desires to utilize the services of other efficient organizations similarly organized and equipped to undertake projects on this basis, approval may be given to this latter method of undertaking the work on particular projects. On all work undertaken on a contract or force-account basis the specifications shall stipulate the minimum man-hours of employment established for the project or the minimum percentage of the total cost, including the cost of acquiring any private property necessary for the project, which shall be paid to persons actually employed on the work, and no contract shall be awarded or force-account work approved on a basis which will provide less than the required man-hours of employment or the required percentage of total cost as defined to go to persons actually employed on the work, unless the State highway department is willing to assume the additional cost involved. In the case of overruns or underruns in quantities or the performance of contingent items in the work performed on a contract or by force account, the minimum number of man-hours of employment to be given on the project or the minimum percentage of total cost as above defined which shall be paid to persons actually employed on the work, as the case may be, shall be appropriately adjusted on the basis of the final cost of the project. The specifications shall not describe in detail any restrictive methods of undertaking the work, but the contractor shall be permitted to undertake the work in general conformity with the approved specifications in which hand-labor methods shall be permitted to the maximum extent possible on any detail of work which can be undertaken by such methods without seriously impairing the quality of the work.

ADVERTISEMENT AND AWARD OF CONTRACTS

SEC. 9. Before contract is awarded for any project, bids shall be requested by advertisements inserted once a week for not less than 2 weeks in such newspapers and/or other publications as will insure adequate publicity. The award, if made, shall be to the lowest qualified bidder submitting a proposal in conformity with the specification requirements.

CONTRACTS AND CONSTRUCTION

SEC. 10. All contracts for the construction of Works Program grade-crossing projects shall be entered into by the State highway department, and no contract for any such project, or part thereof, shall be entered into or award therefor made by any State without prior concurrence in such action by the district engineer of the Bureau of Public Roads.

All contracts shall contain the following provision with respect to the purchase of materials by the contractor entering into the work on the project:

> This agreement is entered into on the basis that if subsequent legislation shall require observance of minimum wages and/or maximum hours of employment and/or limitation as to age of employees in the production of materials or other supplies purchased by the contractor and entering into the work the contract shall be subject to modification in accordance with such statutory requirements to the extent authorized or required by law.

Approval will not be given to any procedure or requirement designed to prevent the award of contracts to qualified contractors nonresident of the State in which the work is located. All contracts shall contain special provisions prescribed by the Bureau of Public Roads to give effect to requirements respecting wages, hours of work, conditions of employment, etc., as prescribed by Executive orders and contemplated by these rules and regulations affecting such work.

WAGES OF LABOR

SEC. 11. All contracts for the construction of grade-crossing projects shall prescribe the minimum rates of wages as predetermined by the State highway department subject to the approval and in conformity with standards fixed by the Bureau of Public Roads, which contractors shall pay to the different classes of labor, and such minimum rates shall be stated also in the advertisement for bids and in proposals or bids which may be submitted. The wage rates so determined shall be a minimum rate for unskilled labor, a minimum rate for labor, intermediate grade, and a minimum rate for skilled labor. The classification of labor employed on grade-crossing work into the three classes mentioned shall be in accordance with instructions issued by the Bureau of Public Roads. The minimum wage rate established shall be reasonably comparable to the hourly rates paid by the State highway department with its own funds for work of a similar character. In establishing wage rates to apply to different sections of a State, consideration may be given to the variation in living costs in the different sections of a State. All contracts for the construction of projects under these rules and regulations shall require that the wages of all labor shall be paid in legal tender of the United States. This condition will be considered satisfied if payment is made by a negotiable check, on a solvent bank, which may be readily cashed by the employee in the immediate community for the full amount, without discount or collection charges of any kind.

EMPLOYMENT OF LABOR

SEC. 12. Contracts for all projects shall contain stipulations that preference in employment of labor shall be given (except in executive, administrative, supervisory, and highly skilled positions) to persons from the public-relief rolls and that at least 90 percent of all persons working on a contract shall have been taken from such public-relief rolls. Only persons certified for assignment to work by the United States Employment Service shall be employed, subject to the exceptions mentioned.

No person under the age of 16 years, and no one whose age or physical condition is such as to make his employment dangerous to his health or safety or to the health and safety of others, shall be employed on any project. This paragraph shall not be construed to operate against the employment of physically handicapped persons, otherwise employable, where such persons may be safely assigned to work which they can ably perform.

No person currently serving sentence to a penal or correction institution shall be employed on any project.

Only one member of a family group may be employed under the contract except as specifically authorized by the Secretary.

Except as specifically provided under this section, workers who are qualified by training or experience to be assigned to projects of this character shall not be discriminated against on any grounds whatsoever.

All contracts shall be conducted in accordance with safe working conditions, and every effort shall be made for the prevention of accidents.

The wages to be paid on projects under this act may not be pledged or assigned, and any purported pledge or assignment shall be null and void.

HOURS OF LABOR

SEC. 13. Contracts for all projects under this act shall contain a stipulation that the maximum hours of work for manual labor shall be 8 hours per day and 130 hours per month, and the maximum hours of work for clerical and other nonmanual employees shall be 8 hours per day and 40 hours per week. It shall not be considered practical and feasible to apply the 130-hour-per-month limitation to work located at points so remote and inaccessible that camps are necessary for housing and boarding practically all of the labor employed on the work as determined by the State highway department with the approval of the district engineer of the Bureau of Public Roads prior to advertisement, provided, however, that on all such isolated projects the maximum hours of work shall be 8 hours per day and 40 hours per week.

CERTIFIED PAY ROLLS TO BE FURNISHED

SEC. 14. The specifications for each project shall contain a provision requiring the contractor and all subcontractors to furnish to the State highway depart-

ment, on forms to be prescribed and in accordance with instructions to be issued, copies of weekly pay rolls within 3 days after the payment of such pay rolls, and there shall be attached to such pay rolls an affidavit as required by the provisions of Public Act No. 324, Seventy-third Congress, approved June 13, 1934, which shall be included in and made a part of the special provisions. Each pay roll shall be accompanied by a statement indicating the approximate expenditures for the principal materials used or purchased for the work, itemized as may be required. The pay rolls shall be divided into four sections, under which shall be appropriately grouped:

(1) Executive, administrative, and supervisory employees.
(2) Skilled labor.
(3) Intermediate labor.
(4) Unskilled labor.

All employees shall be paid weekly and all pay rolls shall be submitted for each calendar week not later than the third day after the date on which employees are paid, which shall not be later than Wednesday of the week following the week covered by the pay roll.

The total number of hours of employment given under each of the four sections of the pay roll, together with the total amount paid under each section of the pay roll, shall be shown on each weekly pay roll, and the totals for both items shall be carried forward to succeeding pay rolls, so that the final pay roll will reflect the total hours of employment given to the different classifications of labor as well as the total amounts paid to each classification. Deviation from this procedure will not be permitted. The contractor's time book shall be open to inspection by the Secretary, or his authorized representative, and to authorized representatives of the State highway department at any time.

A monthly report shall be prepared by the contractor on forms furnished by the Department of Labor for each calendar month, showing the number of persons on the pay rolls of the contractor and subcontractors on each project, the aggregate amount of such pay rolls, the man-hours worked during the month, and the approximate expenditures for materials during the month, itemized as may be required. This report in duplicate shall be furnished to the State resident engineer on the project within 5 days after the close of each calendar month and promptly transmitted by him to the district engineer of the United States Bureau of Public Roads.

The pay rolls shall show clearly whether or not the persons listed thereon as obtained from the Reemployment Service were listed as drawn from the relief rolls.

EMPLOYMENT AGENCIES

SEC. 15. All contracts for work to be done shall provide that labor required for such projects and appropriately to be selected through local employment services shall be selected from qualified workers referred by employment agencies designated by the United States Employment Service and in accordance with the required special provisions.

SUBLETTING AND SUBCONTRACTING

SEC. 16. All contracts for projects shall contain suitable stipulations designed to insure that not less than 80 percent of the work embraced in the contract, exclusive of items not commonly found in contracts for similar work, or which require highly specialized knowledge, craftsmanship and/or equipment not ordinarily available in contracting organizations which perform work of the character embraced in the contract, shall be performed by the contractor with his own organization; provided, that a procedure may be approved whereby a contractor who states in his proposal a particular item or items which he proposes to sublet and names the subcontractor to whom he proposes to sublet such work, may, if such item or items do not constitute the major item or items of the contract, have such work performed by the subcontractor named notwithstanding the above limitation. The State highway department shall furnish to the Bureau of Public Roads for transmittal to the Works Progress Administration and to the Department of Labor the names and addresses of all subcontractors on projects at the earliest date practicable.

USE OF DOMESTIC MATERIALS

SEC. 17. All contracts for projects shall provide that in the performance of the work the contractor, subcontractors, material producers, or suppliers shall use only such unmanufactured articles, materials, and supplies as have been

mined or produced in the United States, and only such manufactured articles, materials, and supplies as have been manufactured in the United States substantially all from articles, materials, or supplies mined, produced, or manufactured, as the case may be, in the United States, unless articles, materials, or supplies of the class or kind to be used, or the articles, materials, or supplies from which they are manufactured are not mined, produced, or manufactured, as the case may be, in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality; provided, however, that if the Bureau of Public Roads shall find that in respect to some particular articles, materials, or supplies it is impracticable to make such requirement, or that it would unreasonably increase the cost, an exception shall be noted in the specifications as to those particular articles, materials, or supplies, and a public record shall be made of the findings which justified the exception.

DIRECT-LABOR OR FORCE-ACCOUNT WORK

SEC. 18. All work done by direct labor or force account shall be subject to these rules and regulations except work of this character necessary for the maintenance of railroad traffic and the adjustment of railroad facilities which may be performed by the railroad companies with their own forces in accordance with the working agreements between the railroad labor unions and the affected railroads. On such work the railroads will be reimbursed for actual costs incurred because of the project, and their accounts of such work must be kept in such way that they may be readily audited prior to reimbursement. Any material furnished by the railroad company for temporary work will be paid for at actual cost less fair salvage value when the material is released.

MATERIALS

SEC. 19. All contracts for the construction of grade-crossing projects which are paid for in whole or in part with Works Program grade-crossing funds shall require the contractor to furnish all materials entering into the work, and no requirement shall be contained in any contract in any State providing price differentials for or restricting the use of materials to those produced within the State; provided that in the event any arrangements are made by the Federal Government for the purchase of materials which the contractor could utilize in his work, the specifications shall list such materials, the prices at which the contractor will be charged therefor or at which he may purchase them, and the methods under which they will be made available; and the contractor shall have the option of obtaining such materials as may be required in his work, by such methods or of obtaining them through ordinary commercial channels, as may appear to his advantage.

On direct-labor or force-account work all materials shall be purchased under competitive bids, except that for minor quantities of materials which may be obtained locally from a number of independent sources, the receipt by the State of quotations from not less than three local dealers will be considered as sufficient means to secure economy and efficiency in the corresponding expenditure of public funds. Published advertisements shall be employed in the purchase of large quantities of materials and the award made on the basis of sealed bids publicly opened. In the event that arrangements are made by the Government for the purchase of materials which may be used on direct-labor or force-account work, the same option with respect to the use of such materials shall obtain as on contract work.

All materials, whether used on contract or force-account work, shall comply with approved specifications.

APPROVAL OF PLANS BY DISTRICT ENGINEER

SEC. 20. When, in the opinion of the district engineer of the Bureau of Public Roads, a State shall have filed a complete project statement for a project on an approved program and satisfactory plans, specifications, and estimates therefor, or for any part thereof, the district engineer may authorize advertisement of such project, or of such part thereof, and/or may recommend approval of such plans, specifications, and estimates, but shall not concur in the award of any contract until after the project statement has been approved.

Projects of a high order of priority with respect to providing employment and eliminating hazards, and conforming to these rules and regulations to the

extent of a reasonable percentage of the work permissible under the different classifications of projects may be approved by the district engineer for construction upon the submission of a project statement and satisfactory plans prior to formal action on a detailed program submitted by any State, provided clearance is obtained on such projects from the State director of the National Emergency Council and the State administrator of the Works Progress Administration.

HIGHWAY-PLANNING PROJECTS

SEC. 21. With the approval of the Secretary, not to exceed 1½ percent of the amount apportioned to any State for eliminating the hazards to life at railroad grade crossings may be used for surveys, plans, and engineering investigations of projects for future construction in such State or for the general planning of a complete highway system and program of highway improvement for such State. Such proposed surveys, plans, and engineering investigations shall be initiated by the State highway department in the same manner as other projects by the submission of a project statement and, if approved by the Secretary, the work may be prosecuted under a project agreement. This section shall not apply to surveys, plans, or engineering investigations of construction projects to be financed with any regular Federal-aid funds immediately available.

ALTERNATE PLAN FOR UTILIZATION OF WORKS PROGRAM GRADE-CROSSING FUNDS

SEC. 22. Any State highway department desiring to do so may propose an alternate plan for the utilization of Works Program grade-crossing funds and such alternate plan may be approved provided it satisfies the following conditions:

(1) That the State enter into a binding agreement with the Secretary to undertake Works Program grade-crossing projects in accordance with all the rules and regulations promulgated for such projects except with respect to section 6, entitled "Basis of approval of projects", and such portions of other sections as directly relate to section 6.

(2) That in consideration of such release from the requirements of the rules and regulations respecting "Basis of approval of projects" and such portions of other sections as directly relate to this section, the State agrees:

a. To take from the relief rolls and give employment to its full quota of individuals, determined by dividing the allotment to the State for Works Program highway projects and/or Works Program grade-crossing projects by the allowable expenditure of $1,400 per man-year of employment, or to provide the equivalent in man-hours of employment on the basis of 1,560 man-hours of employment per year (130 hours per month times 12 months) provided, however, that if the minimum wage rates established by the State highway department are such as to make possible monthly earnings substantially in excess of the schedule of monthly earnings established by Executive order for the general Works Program by giving employment for less than 130 hours per month, the maximum hours of employment per month may be adjusted accordingly and the equivalent man-hours of employment per year may be computed on such basis.

b. To give employment to all such individuals so employed at the determined wage rates and hours of employment for a period of 1 year, or the equivalent thereof in man-hours of employment on highway work under the direct supervision of the State highway department.

c. To provide State funds to carry into effect this obligation to the extent necessary in excess of Federal highway funds allotted the State.

d. To cooperate with the Bureau of Public Roads and the Works Progress Administration in every way possible to make the relief employment effective and in harmony with the administration's work-relief policies.

e. To furnish certified copies of all pay rolls on which work-relief labor is employed under this proposal showing the names of persons taken from relief rolls and the total man-hours of employment given to each. The totals in man-hour employment shall be carried forward to succeeding pay rolls.

(3) To safeguard the interests of the Government the total Federal reimbursement to the State at any time on Works Program grade-crossing projects approved under the alternate plan shall not exceed the product of the total man-hour employment given to individuals from the public relief rolls on such projects and other projects undertaken by the State on which credit may be taken for its relief employment quota, multiplied by the allowable expenditure of Works Program grade-crossing funds for each man-hour of employment given computed as outlined in this section.

STATE REGULATORY BODIES

SEC. 23. A State which has laws vesting control of grade-crossing matters in any other agency than the State highway department must necessarily effect cooperative arrangements between such agency and the State highway department for the purpose of carrying out the program of projects contemplated by the act. Controversies over the division of cost between a railroad and the State should not arise when Federal funds are available for paying 100 percent of the construction cost of grade-crossing projects. The approval of a public utilities commission or other governing body in a State to work of this character where agreement exists between the affected parties with respect to established grades, clearances, etc., and controversies are eliminated respecting division of costs, will be largely a matter of form. Every effort, therefore, should be made to prevent delay to the program because of the formality of clearing such matters through a State regulatory body.

CONTRIBUTIONS FROM RAILROADS

SEC. 24. Grade-crossing projects shall be undertaken on a basis that will impose no involuntary contributions on the affected railroads. State laws which impose a fixed contribution upon the railroad companies for work of this character shall be held not to apply to projects under the act. If any contribution by a railroad company is indicated for right of way or construction cost of any project, the record of such project shall be supplemented by a statement from the railroad company that the indicated participation is wholly voluntary.

MAINTENANCE OF SECONDARY OR FEEDER PROJECTS

SEC. 25. Project agreements for secondary or feeder-road projects shall provide for the maintenance of such projects by the State where the law permits the State to undertake such maintenance; otherwise the State shall submit, in the form prescribed by the Secretary, an agreement with the county or other political subdivision for such maintenance.

MAINTENANCE OF PROJECTS WITHIN MUNICIPALITIES

SEC. 26. Project agreements for projects within municipalities shall provide for the maintenance of such projects by the State where the law permits the State to undertake such maintenance; otherwise the State shall submit, in the form prescribed by the Secretary, an agreement with the municipality or other political subdivision for such maintenance.

AVAILAILITY OF FUNDS

SEC. 27. The funds apportioned to the State under the act are for use during the fiscal year 1936. They are available only to the extent that they can be used expeditiously under these rules and regulations.

STATES WITHOUT SATISFACTORY HIGHWAY DEPARTMENTS

SEC. 28. If the Secretary shall find that any State is without a satisfactory State highway department, as defined by the Federal Highway Act (Sec. 2), the administration of the apportionment to such State, pursuant to the Emergency Relief Appropriation Act of 1935, shall be subject to such special rules and regulations, authorized by law, as may be prescribed by the Secretary of Agriculture.

PAYMENT TO STATES

SEC. 29. No payments will be made to any State on account of work performed on any project which has not been done in accordance with these rules and regulations and the special provisions issued thereunder. The final voucher for

each project shall be accompanied by a statement showing: (1) The total man-hours of employment given to persons employed on the project under each pay-roll classification together with the total amounts paid to such employment classifications; (2) the quantities and cost of each of the principal materials purchased from commercial sources and entering into the work; and (3) the quantities of each of the principal materials produced locally by the contractor and/or subcontractors and entering into the work.

APPLICATION OF REGULATIONS

SEC. 30. These rules and regulations shall apply to all funds allocated and apportioned or otherwise made available thereunder for the elimination of hazards to life at railroad grade crossings from the appropriations contained in the Emergency Relief Appropriation Act of 1935. They shall not apply to projects under the direction or supervision of the Works Progress Administration.

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